

## CCRB INVESTIGATIVE RECOMMENDATION

Investigator: Frank Montgoris	Team: Squad #7	CCRB Case #: 201601621	<input checked="" type="checkbox"/> Force	<input type="checkbox"/> Discourt.	<input type="checkbox"/> U.S.
			<input checked="" type="checkbox"/> Abuse	<input type="checkbox"/> O.L.	<input type="checkbox"/> Injury
Incident Date(s) Thursday, 02/25/2016 7:45 PM	Location of Incident: § 87(2)(b) (Basement Apartment)	Precinct: 67	18 Mo. SOL 8/25/2017	EO SOL 8/25/2017	
Date/Time CV Reported Sat, 02/27/2016 9:23 AM	CV Reported At: CCRB	How CV Reported: Call Processing System	Date/Time Received at CCRB Sat, 02/27/2016 9:23 AM		

Complainant/Victim	Type	Home Address
§ 87(2)(b)	§ 87(2)(b)	§ 87(2)(b)

Subject Officer(s)	Shield	TaxID	Command
1. DT3 Eliot Arias	2079	936140	NARCBBS
2. DT3 Mohammed Manik	29240	948240	NARCBBS
3. An officer			NARCBBS

Witness Officer(s)	Shield No	Tax No	Cmd Name
1. SGT Maggie Clamp	01461	940990	NARCBBS

Officer(s)	Allegation	Investigator Recommendation
A.DT3 Eliot Arias	Abuse: Detective Eliot Arias damaged § 87(2)(b)'s property.	§ 87(2)(b)
B.DT3 Eliot Arias	Abuse: Detective Eliot Arias entered the basement apartment of § 87(2)(b) in Brooklyn.	§ 87(2)(b)
C.DT3 Eliot Arias	Force: Detective Eliot Arias pointed his gun at § 87(2)(b)	§ 87(2)(b)
D.DT3 Mohammed Manik	Force: Detective Mohammed Manik pointed his gun at § 87(2)(b)	§ 87(2)(b)
E. An officer	Force: An officer used physical force against § 87(2)(b)	§ 87(2)(b)

### **Case Summary**

On February 25, 2016, at approximately 7:45 p.m., officers from the Brooklyn South Narcotics Squad executed a search warrant for narcotics on the first floor of § 87(2)(b) a two story private house, located in Brooklyn. During the execution of the warrant, Det. Eliot Arias, Det. Mohammed Manik, and Sgt. Maggie Clamp entered the basement of the house, and Det. Arias allegedly entered § 87(2)(b)'s basement apartment by forcibly breaking his apartment door down (**Allegations A and B**). While inside the location, Det. Arias and Det. Manik allegedly pointed their guns at § 87(2)(b) (**Allegations C and D**). An officer allegedly grabbed § 87(2)(b) took him to the ground, and handcuffed him (**Allegation E**). No arrests or summonses resulted from this incident.

This case exceeded the 90-day benchmark because of documentation for this incident, including the search warrant, took over one month to gather. § 87(2)(g)

### **Mediation, Civil, and Criminal Histories**

This case was eligible for mediation, but § 87(2)(b) declined to mediate. § 87(2)(b) [§ 86(1)(2)&(4)] § 87(2)(c)

As of June 2, 2016, § 87(2)(b) has not filed a Notice of Claim against the City of New York (Board Review 02).

### **Civilian and Subject Officer CCRB Histories**

- This is § 87(2)(b)'s first CCRB complaint (Board Review 03).
- Det. Arias has been a member of the NYPD for 11 years. Det. Arias has been the subject of ten prior allegations stemming from three cases. A frisk allegation was substantiated against Det. Arias from CCRB Case #201311831, in which charges were recommended. Det. Arias has not been the subject of any prior entry or failure to show warrant allegations. § 87(2)(g)
- Det. Manik has been a member of the NYPD for six years. Det. Manik does not have any prior allegations against him.

### **Findings and Recommendations**

#### **Explanation of Subject Officer Identification**

- § 87(2)(g)
- § 87(2)(b) alleged that four male officers entered his apartment with their guns drawn and pointed at him. § 87(2)(g)
- § 87(2)(b) alleged that a 5'8" tall, 190-pound white male, who had black hair and who appeared to be 29 years old, grabbed his clothes and pushed him down to the floor to handcuff him. Neither Det. Arias, who is a 5'7" tall, 175-pound Hispanic male, nor Det.

Manik, who is a 5'6" tall, 150-pound Asian male, according to their NYPD photographs, fit the description provided by § 87(2)(b). Furthermore, all three officers that acknowledged being in the basement denied that any force was used on § 87(2)(b) during the incident. § 87(2)(g)

**Allegation A – Abuse of Authority: Detective Eliot Arias damaged § 87(2)(b)'s property.**

**Allegation B – Abuse of Authority: Detective Eliot Arias entered the basement apartment of § 87(2)(b) in Brooklyn.**

It is undisputed that Det. Arias and Det. Manik entered the basement hallway of § 87(2)(b)

§ 87(2)(g)

§ 87(2)(b) alleged that he was inside his apartment, one of the multiple apartments located in the basement of § 87(2)(b) § 87(2)(b) when he heard footsteps coming down the stairs from the first floor. § 87(2)(b) then heard a voice say, "Police! Police! Open this door!" An officer then allegedly broke down § 87(2)(b)'s apartment door with a ram, and four officers entered § 87(2)(b)'s apartment. § 87(2)(b) was handcuffed until Sgt. Clamp arrived in the hallway and allegedly told the officers, "Un-cuff him. Wrong man." § 87(2)(b) was then uncuffed and the officers left the apartment (Board Review 05).

Det. Arias alleged that, while conducting a search of the first floor, he observed § 87(2)(b) enter the first floor from the basement. Det. Arias yelled out, "Police! Stop!" Upon seeing the officers, § 87(2)(b) allegedly threw a clear plastic twist with a white substance inside, which appeared to be crack cocaine, down the stairs leading to the basement. He then closed the door behind him and descended the stairs. Det. Arias and Det. Manik followed § 87(2)(b) into the basement hallway to conduct a security sweep, and encountered him in the hallway. Det. Arias allegedly asked § 87(2)(b) if he lived there and if he threw something down the stairs, to which § 87(2)(b) responded, "No. Don't worry about it." Det. Arias searched the staircase for the bag that he saw § 87(2)(b) throw, but did not find anything. He and Det. Manik, the only two officers to enter the basement, then left the basement. Det. Arias denied that § 87(2)(b)'s apartment door was forcibly breached during the incident, and also denied entering any apartments inside of the basement. The interaction with § 87(2)(b) lasted approximately two minutes (Board Review 06).

Det. Manik corroborated Det. Arias's testimony, stating that only he and Det. Arias entered the basement hallway. Det. Manik stated that he did not see § 87(2)(b) throw anything down the stairs and, at the time, he did not know why Det. Arias followed § 87(2)(b) into the basement, but stated he followed Det. Arias because he was assigned as his backup during the execution of the search warrant. Det. Manik denied damaging § 87(2)(b)'s door and did not see Det. Arias do so (Board Review 07).

Sgt. Clamp, the Entry Supervisor testified that, while conducting the search of the first floor of the residence, Det. Arias informed her that he heard a female screaming from the basement, and that he was going to enter the basement to investigate it. Det. Arias and Det. Manik entered the basement, and Sgt. Clamp followed them seconds later. Sgt. Clamp did not see Det. Arias or Det. Manik in the basement and did not know where they went. She took a few steps down the hallway and encountered a female individual with a language barrier. The woman gestured to Sgt. Clamp that she was okay by giving Sgt. Clamp the thumbs up, and then gestured

for Sgt. Clamp to leave the basement. Sgt. Clamp then turned back towards the stairs, observed Det. Arias and Det. Manik behind her, and left the basement with them. Sgt. Clamp denied seeing § 87(2)(b) at all during the incident, and denied entering any rooms inside of the basement. Sgt. Clamp did not recall any property damage occurring to § 87(2)(b)'s door, and testified that no officers, aside from herself, Det. Arias, and Det. Manik, ever entered the basement (Board Review 08).

The investigation obtained four photos of § 87(2)(b)'s front door, provided to the CCRB by § 87(2)(b) after his in-person statement. Three photos illustrate the wooden door detached from its hinges. One photo shows structural damage to the threshold of the door and the locks (Board Review 09).

The investigation obtained a copy of Search Warrant § 87(2)(b), issued by the Criminal Court of the City of New York, which judicially ordered officers to enter the first floor of § 87(2)(b) and search for narcotics without first announcing their presence (Board Review 04).

The memo books of Det. Arias, Det. Manik, and Sgt. Clamp were obtained by the investigation. All three memo books documented the execution of the search warrant, but none of the memo books have an entry regarding an entry into the basement of the residence or any interaction involving § 87(2)(b) (Board Reviews 10, 11, 12)

A search warrant issued by a New York City criminal court may be executed pursuant to its terms. Criminal Procedure Law, Section 690.50 (Board Review 13). Officers are permitted to conduct a warrantless search when they have probable cause that contraband is present and they reasonably believe that the contraband will be destroyed or removed prior to being able to obtain a search warrant. People v. Clements, 37 N.Y.2d 675 (1975) (Board Review 14). Police officers are permitted to enter a premises without a warrant if they reasonably believe that there is an emergency and immediate need for their assistance for the protection of life or property. People v. Greenleaf, 634 N.Y.S. 2d 892 (1995). The search must not be primarily motivated by intent to arrest and seize evidence, and there must be a reasonable basis to associate the emergency with the area to be searched. Id (Board Review 15).

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)

[REDACTED]

**Allegation C – Force: Detective Eliot Arias pointed his gun at § 87(2)(b)**

**Allegation D – Force: Detective Mohammed Manik pointed his gun at § 87(2)(b)**

§ 87(2)(g)

[REDACTED]

[REDACTED] alleged that, upon entry into his basement apartment, officers had their guns drawn and pointed at him (Board Review 05).

Both Det. Arias and Det. Manik denied having their guns pointed at § 87(2)(b) while interacting with him (Board Reviews 06 and 07). Sgt. Clamp did not see Det. Arias or Det. Manik draw their guns at any point while inside the basement of the residence (Board Review 08).

§ 87(2)(g)

[REDACTED]

§ 87(2)(g)  
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§ 87(2)(g)

**Allegation E – Force: An officer used physical force against § 87(2)(b)**

§ 87(2)(b) alleged that, during the initial entry into his apartment, a 5’8” tall, 190-pound white male, who had black hair and who appeared to be 29 years old, grabbed his clothes and pushed him down to the floor to handcuff him (Board Review 05).

Det. Arias, Det. Manik, and Sgt. Clamp all denied that any force was used against § 87(2)(b) during the incident (Board Reviews 06, 07, and 08).

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Squad: 7

Investigator:	_____	_____	_____
	Signature	Print	Date
Squad Leader:	_____	_____	_____
	Title/Signature	Print	Date
Reviewer:	_____	_____	_____
	Title/Signature	Print	Date